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September 29th. 1885

Your Memoirs

attached I promise to pay to

the order of William S. Muller

Ten Thousand ⁰⁰/₁₀₀

Dollars

at Mt Morris National Bank

Value received

David B. Rice

No. Due Feb 2/86

W. L. Muller

John O'Brien

J. H. Clark

Governor Hill

AND THE

Aqueduct Frauds.

The Story Related by the Witnesses

BEFORE THE

Fassett Investigating Committee.

"I think the work of the Committee has been one of the most beneficent things that has ever happened in my day."—MAYOR HEWITT.

NEW YORK.

1888.

How Hill's nomination in 1885 was secured by bargains with O'Brien and Squire—How Hill got \$10,000 for procuring the Contract to construct Section 12 for O'Brien & Clark—The money raised on Hill's Note—The Note paid by O'Brien & Clark—Hill's false statement to the People about the Note.

How Hill got the Aqueduct Commission re-organized in the contractors' interest, and then lied about it—The Frauds upon the City by the Hill Aqueduct Commission.

Hill agrees to protect Squire from Punishment for his Crime in consideration of the Patronage of the Department of Public Works—His desertion of Squire.

Hill frightened by Hewitt into betraying O'Brien.

The history of David B. Hill's connection with the Aqueduct frauds, involves the history of the whole Aqueduct from its inception in 1881. It is the purpose of this article to tell the story only from the accession of Mr. Hill to the Governorship in January, 1885.

THE ORIGIN OF THE FRAUDS.

The situation at that time may be summed up in a few words. Hubert O. Thompson had conceived the grand idea of building the new Aqueduct, a public work, comparing in magnitude of cost with the Erie Canal and far surpassing the Tweed Court House, in order to furnish the means of financial and political gain to the gang of plunderers and politicians with whom he was associated. His enterprise was once nipped by the veto of Governor Cornell. He thereupon excited a "water

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famine" scare, which carried his bill with all its facilities for fraud through the Legislature of 1883. The Act furnished for Thompson a fairly controllable board of Aqueduct Commissioners. These Commissioners decided upon a line and form of Aqueduct, far more costly than that which had been contemplated by the Legislature, in passing the bill. They prepared forms of contracts, containing obscure clauses, peculiarly adapted to facilitate claims for "extra work." They let the work upon the Aqueduct, from the Croton to the Harlem, principally to the class of persons for whom Thompson had designed the enterprise, and without regard to the amounts bid by other contractors. The principal contracts were let to the firm of O'Brien & Clark, they having received work then estimated at \$6,593,187.50, but on which up to May 1, 1888, they had been actually allowed \$8,613,211.68, and which it is estimated will cost \$9,331,127.68 to complete. The persons interested in the firm of O'Brien & Clark were Heman Clark, John O'Brien, Maurice B. Flynn, John Keenan and John J. Mooney. This firm was organized solely to control a majority of the Aqueduct Commissioners. Clark had had such financial dealings with Commissioner Baldwin as to be regarded as responsible for his favor. O'Brien was a professional politician closely related to Hill, Thompson and others in control. Flynn was considered able to control Commissioner Thompson. Keenan, now a fugitive in Canada for a similar connection with the Broadway Railroad scandal, was held responsible for the vote of Commissioner Loew; and Mooney, the Secretary of John Kelly, was included in the firm to control Kelly's appointee, Commissioner Spencer. None of the last three members furnished anything to the firm but "influence." The other Commissioners were Mayor Edson and William Dowd, a republican, neither of whom did this combination called O'Brien & Clark ever attempt to control. But through the majority of the commission the results were substantially secured for which O'Brien & Clark was organized.

HILL'S DEALS FOR HIS NOMINATION IN 1885.

Such was the situation when Lieutenant-Governor Hill in January, 1885, succeeded to the Governorship, upon the resignation of Governor Cleveland to become President. Hill had one year of Cleveland's unexpired term to serve, and was

desirous of nomination and election in the ensuing autumn. He had been known in Elmira as a jury managing lawyer, and through the State as a politician who had been the protégé and partner of Tweed and his representative in the Legislature, who had endeavored to protect Judge Barnard from impeachment, and who had been placed on the ticket with Cleveland in 1882 as a sop to that element of his party which was dissatisfied with the nomination of Cleveland. It was to this class, the jobbers in public contracts, the rum sellers, and the dealers in votes upon which he had always relied, and it was with the leaders of this class that he plotted for the control of the coming State convention of his party. The Aqueduct and the Public Works each employed thousands of votes, and each could be manipulated to furnish margins of public money for election expenses. O'Brien and Squire, one controlling the Aqueduct and the other the Public Works, commanded Hill's early attention. He captured O'Brien with political position and promises of future assistance, and Squire with a threat to expose the Squire-Flynn letter, of which Hill even then had knowledge.

Hill, contemplating O'Brien's grip on the Aqueduct from the Commissioners to the hod carriers, secured his elevation at once from the obscurity of county politics to the Chairmanship of the Democratic State Committee, a position given him for no other reason than his power over the aqueduct votes and money. O'Brien was flattered by this prominence and anticipated Hill's influence and favors. He was willing enough to furnish delegates and votes for Hill, and provide large contributions of money for Hill's campaign.

Circumstances favored Hill in the capture of Squire. The oft told story of Squire's appointment as Commissioner of Public Works is familiar; how Thompson procured from him a letter in which he agreed, if appointed, "to make no appointments in said office without your (Flynn's) approval, and to make such removals therein as you may suggest, and to transact the business of said office as you may direct;" how Squire failed to meet the expectations of Thompson; and how Mayor Grace waged relentless war upon Squire; the details of all these matters are fresh in the public mind. But how the shrewdness of Hill turned the situation to his own account is not so well known. In the summer of 1885 Thompson chilled by a cold

blast from the White House, and disappointed in Squire, determined to force Squire to resign. With this in view, he exhibited the letter to Hill. This was more than a year before the public exposure. Instead of aiding Thompson by telling Squire to resign, Hill sent for Squire and entered into a secret alliance with him. Hill assured Squire that if he could rely on the help of the Public Works Department at the coming primaries, he would support him against the attacks of Thompson. There was no choice for Squire but to acquiesce. (Squire, p. 27). Relying on Hill he but was strengthened and encouraged to openly defy both Grace and Thompson.

With the Aqueduct and Public Works Department back of him, and with every other organization which he could seduce or procure by his disreputable methods, and with the little opposition to such methods that the Democratic Party of New York ever furnishes, Hill secured the nomination in 1885.

HILL'S CORRUPTION FUND.

The true story of Hill's election over Davenport has never been fully published, and it is necessary to tell an unpublished part thereof, in order to begin the history of Hill's aqueduct notes. Every one will remember that Davenport's election was conceded by the Democrats in the middle of October. It was over confidence, resulting from this concession, that furnished Hill an opportunity which he was quick to seize. Davenport and his campaign managers relaxed their efforts. Hill realized that he must act quietly and without exciting suspicions or renewed efforts on the part of the Republican managers. Open purchase of votes on election day was his only expedient and one to which he did not hesitate to resort. But his campaign funds were exhausted and the State Committee unprepared. Hill took this delicate work into his own hands, where it could be done quietly and well. Thirty thousand dollars was the fund he set out to raise for this use, but his friends had subscribed about all that they could. O'Brien and the rest had been drained of ready money.

HILL'S AQUEDUCT NOTES.

The only course was to discount the future. O'Brien was called in and it was found that he could procure at least a part of the desired funds, provided he could be reasonably certain of obtaining the Aqueduct contracts for Sections 12, 13 and 14, soon

to be let. Hill was willing to give his notes, if he could only find a way to provide for them when due. Accordingly he agreed to aid O'Brien in obtaining the desired contracts, provided O'Brien would get some of the notes discounted and agree to apply the coming profits of the contracts, so far as needed, to paying the notes.

Acting on such agreement, Hill made his notes to the order of William L. Muller, and put them into Muller's hands for negotiation. Mayor Grace and other wealthy Democrats were asked to discount some of these notes temporarily, until such time as the Aqueduct contracts should be secured and become profitable.

THE \$10,000 NOTE DESCRIBED.

Two of these notes have been definitely described by the witnesses before the committee.

Thomas W. Robinson, the cashier of the Mt. Morris National Bank, where one of the notes was discounted, described it as a four months' note for \$10,000 signed by Governor Hill, dated October 29th, 1885, and payable March 2d, 1886, to the order of William L. Muller and endorsed by Muller, John O'Brien and Heman Clark.

Heman Clark's description of the note is as follows, (pp. 130 and 177.):

Q. Did he (Muller) say what he wanted the money for, or what the money was used for? A. Why, yes; he said he wanted the money for Governor Hill.

Q. Whose note was it? A. It was Governor Hill's note and indorsed by Mr. O'Brien and Mr. Muller.

Q. Was it indorsed by Mr. Muller and Mr. O'Brien when presented to you? A. Yes, sir; when it came to me it was indorsed by them.

Q. Do you remember who was the first indorser, Mr. Muller or Mr. O'Brien? A. I think Mr. Muller.

Q. What, if anything, did you do about it? A. Well, money was a little scarce with all of us; I perhaps was a little reluctant about indorsing, but I did do it.

Q. Did you take it up to the Mount Morris Bank? A. No, sir; Mr. O'Brien took it up.

Q. Did you indorse it as an individual in your own name? A. I did.

Q. Do you know who got the money? A. My recollection is that Mr. O'Brien got the money on it.

Mr. Clark then proceeded to testify that Hill's note matured March 3d, (2d) 1886, and was then substituted by a second note for the same amount signed by O'Brien and endorsed by Flynn

which matured June 3d, 1886. A third note for the same amount by the same parties was then substituted, which matured September 7th, 1886. Then a fourth note was substituted, for the same amount, by the same parties, which matured December 10th, 1886. At that date \$1,000 was paid and a fifth note for \$9,000 made by O'Brien and endorsed by O'Brien & Clark was substituted. Next \$1,000 more was paid and a sixth similar note was substituted. On June 15th, 1887, a seventh renewal for \$7,000 was made, \$1,000 being paid. On October 21st, 1887, the seventh note was paid by O'Brien & Clark and \$5,000 was charged to O'Brien. Such is the record from the books of O'Brien & Clark.

O'Brien's description of the transaction is as follows (p. 3,434):

Q. Mention has been made here of certain notes made by Governor Hill, during that campaign. I call your attention to a note of \$10,000, which was made by Governor Hill and discounted at the Mt. Morris Bank. Do you remember that? A. I do. I will tell you all about it. Judge Muller came to me and said they wanted some more money.

Q. About when was this? A. Wednesday or Thursday before election. I think I told him I had contributed about all I could afford to—all the loose money I had at the time which I could spare. He said he could get me a note, if I could get it discounted. I told him I thought I could, and I got that note discounted at the Mt. Morris Bank and handed the proceeds to Judge Muller.

Q. Did he go with you to the bank? A. No. The cashier thought he did come with me to the bank, but it was Robert Maxwell who went with me to the bank.

Q. Robert Maxwell, the Superintendent of Insurance? A. Yes, sir; I thought myself Muller had gone with me, but he said to me last night it was Maxwell.

Q. You went to the bank to get the note discounted? A. Yes, sir; and drew the money and took it to the Hoffman House and handed it to Judge Muller.

Q. Whose note was that? A. Governor Hill's note endorsed by Judge Muller.

Q. Did your firm endorse it also? A. No, sir. I endorsed it and got Mr. Clark to endorse it with the understanding that I should take care of the note.

Q. It was indorsed by you individually? A. Yes, sir.

Q. And then by Clark individually? A. Yes, sir.

Q. You got the bills from the bank? A. I did.

Q. What did you do with them? A. I brought them back to the Hoffman House and handed the money to Judge Muller.

Q. Did you ever hear of that money again as a member of the Democratic Committee after you gave it to Muller? A. No, sir.

Q. Did you ever know anything about it? A. No, sir.

Q. The amount of that note was \$10,000? A. Yes, sir.

Q. What were the denominations of the bills that you got from the bank? A. I couldn't tell you. I had the cashier do the money up in a package. I had a cab there. Mr. Maxwell was with me. I took the package and we got into the cab and came right down to the Hoffman, and then I handed the money over. *It was a large package. I think I got fives and tens.*

Q. So it made a pretty large package? A. It did make quite a large package.

From the foregoing descriptions the wood cut has been prepared which appears on the first page of this pamphlet. It is an accurate reproduction of the famous note, though not a *fac simile*.

THE \$5,000 NOTE DESCRIBED.

The other note was described by Alton B. Parker, whom Hill appointed a Judge of the Supreme Court within a few days after the note was made, and who in turn shortly afterwards appointed O'Brien Receiver of the Broadway Railroad (p. 218):

Q. I want to ask you whether a note was made by yourself and others during that campaign for \$5,000? A. Yes, sir.

Q. Who were the parties to that note? A. David B. Hill, William L. Muller and myself.

Q. Was that note cashed by any one? A. Yes, sir; by John Keenan.

Q. He was also a member of the State Committee? A. He was.

Q. At what stage of the campaign was that note made and the money obtained on it? A. If my recollection serves me right, it was about Thursday prior to the day of election.

Q. Who obtained the money from Mr. Keenan on that note? A. I did.

O'Brien also testified on the same subject, (pp. 3,436-3,439):

Q. Were there any other notes of Governor Hill given that fall, on which money was raised? A. Yes, sir; there was one. I will tell you about that. I knew nothing of that note until after I had returned from Dutchess County after election. We had a meeting of the Executive Committee on the Wednesday or Thursday following election. Then Judge Parker told me about this note that he had let Keenan have.

Q. That was the \$5,000 note? A. Yes, sir; that was the first I had heard of that note. We then and there raised \$5,000. Mr. Maxwell and some others went out and collected the money. I contributed \$500 to that note and Judge Parker contributed \$500. We made up, I think, two or three thousand dollars there. And the balance was

collected outside, and Judge Parker held the money. I think he passed that money over, so he told me, to Judge Muller.

Q. To pay the \$5,000 note? A. Yes, sir; now, I will tell you. It ran along for two or three months after that and then Muller came to me and said that that money, he had paid out for other bills.

Q. Which—the Parker money? A. The Parker money—and he wanted to raise \$5,200 to meet the other note and drew an individual note of Muller's and asked me if I would endorse that. I did so and raised the money in Rhinebeck. * * * I was informed it was Governor Hill's note endorsed by Muller and Parker.

* * * * *

Q. What did you do with that draft? A. I gave that to John E. Craft of Kingston, to go to Montreal and see Keenan and bring back that note. It seems to me that there was some time before we could get hold of this note or find Keenan, and I was informed that Craft knew where he was and could find him, so I sent for Craft and gave him this draft and sent him up to Montreal and he brought back the note. What he did with it I don't know. I think he gave it to Muller for the Governor. I never saw the note.

HILL'S FALSE STATEMENT ABOUT THE NOTES.

It is interesting at this point to compare the facts, as sworn to by the witnesses before the Committee, with the statement which Hill gave out for general publication on April 12, 1888, the day after the first exposure appeared in *The Press*. Hill hoped to forestall public comment by a so-called explanation. He hoped also to prevent investigation by belittling the charges. In his published statement Governor Hill said :

Near the close of the campaign of 1885, the *Democratic State Committee* were short of funds and *appealed to me* to aid them. I consented to lend them my credit. * * * The Committee used the avails in the *legitimate expenses* of the campaign.

If this were true, it is not easy to comprehend in what respect the explanation helps Mr. Hill's case. He made a bargain to get money out of the Public Treasury. It is a matter of indifference whether the money was used as a "legitimate" campaign fund or to pay for household expenses. It is undoubtedly true that the money was used in the campaign in the way indicated. His extraordinary household expenses, such as musical clocks, he was accustomed to provide for out of other funds.

But his statement is untrue from beginning to end. It not only omits to tell how he got the notes finally paid, but it contains downright falsehoods. O'Brien's testimony, above quoted, shows that the State Committee did not appeal to Hill for credit,

but that after the Committee had held its last meeting and adjourned to disperse throughout the State for election day, Hill applied to O'Brien not for credit but for money. Grace corroborated O'Brien in this, by stating that he was asked to discount the notes for the Governor's personal campaign and not for the Committee. (p. 3,344); "He said it was for the personal campaign of Governor Hill and that I would make the Governor my friend by furnishing the money." O'Brien also swore that although he was Chairman of the State Committee he knew nothing about the disbursement of the money, but it was turned over to Muller in small bills, after the Committee had adjourned its last meeting, (p. 3,151):

Q. Can you remember just exactly what day before election it was that you finally handed Mr. Muller the money for the discount of that \$10,000 note? A. I think it was on a Thursday, because I started for Dutchess that day.

Q. What time of day? A. About four or five o'clock in the evening, upon my return from the Mt. Morris Bank.

Q. Were the members of the State Committee generally going home about that time? A. Yes, they had all left except Muller, Parker and myself.

Nor would it be possible to convince any one in Chemung County or vicinity, where Muller went, that those small bills were used in "legitimate expenses." The shameful truth is that Hill and Muller distributed the proceeds from their law office in Elmira to local democratic politicians of the surrounding country to use on election day.

SECTION 12—HILL GETS THE CONTRACT FOR O'BRIEN.

The contracts for Sections 12, 13 and 14, of the Aqueduct were let soon after Hill's election, as was anticipated. These were the contracts which Hill had promised to help O'Brien in getting, and out of the profits of which O'Brien had agreed to pay the notes. Under this arrangement O'Brien & Clark put in high bids for all three sections, and Hill's man Muller attempted to get all three for them. It was found, however, that the scheme was too extensive and dangerous to put through in its entirety. It was possible to furnish a flimsy excuse for giving Section 12 to O'Brien & Clark, and O'Brien was able to so sublet that section as to leave a margin sufficient to take care of the notes. Therefore all energy was concentrated upon securing the contract for Section 12.

The bids of four responsible contractors were calculated by the engineers, and their differences less than O'Brien & Clark's are stated as follows :

	Bid.	Difference.
Rogers & Co.....	\$376,310	\$54,035
Paige, Smith & Carey.....	383,761	46,584
Beckwith & Quackenbush....	396,500	33,845
O'Brien & Clark.....	430,345	

The Aqueduct Commission consisted of Messrs. Grace, Dowd, Squire, Spencer, Baldwin and Loew. The first two, it was known, would certainly favor the lowest bidder. Squire could be managed in the usual way. Spencer and Baldwin could always be relied upon by O'Brien & Clark. Loew held the needful vote. The Governor through Muller undertook to secure the majority, as promised. Of course it was necessary to get up some sort of an excuse for the majority's action, and the pliant Chief Engineer, knowing well that his position was dependant entirely upon the will of O'Brien, was induced to inform the Commissioners that Section 12, ought to be given to O'Brien & Clark for the reason that they held the contract for Section 11; that it might be convenient to use their shaft, and their plant which, he said, was conveniently at hand. The Engineer and Commissioners understood this to be only a pretext for letting the work to O'Brien & Clark. The work on Section 11 was actually being done by and with the plant of Rogers & Co., the lowest bidders for Section 12, as sub-contractors of O'Brien & Clark. Moreover convenience of contractors was not a fair consideration, for the board, when other contractors were ready to do the work for less money and give security therefor. Lastly the bad faith of all concerned is exhibited in the fact that O'Brien & Clark immediately upon receiving the contract sublet it to Beckwith & Quackenbush in violation of the contract itself and without objection from the Commissioners or Chief Engineer. The whole excuse was so perfectly transparent that Mayor Hewitt has suggested to the Corporation Counsel the propriety of legal proceedings to compel Hill and the others interested to refund the \$54,035 difference.

Having given this explanation let us set forth the testimony of the witnesses, as to the efforts of Muller in behalf of the Governor. Squire testified (pp. 34 and 39) as follows :

Q. Previous to the letting of that section did Muller call upon you? A. Yes, sir.

Q. Did he say anything to you for whom you should vote in that contract? A. He was very anxious that I should vote for O'Brien & Clark.

Q. What did he say on that subject? A. He asked me to vote for O'Brien & Clark; I said, "I am not an engineer, Mr. Muller, and don't know anything about it; we have got a chief engineer, and if he tells me to vote for A, B or C, or any other letter in the alphabet of bidders, I shall vote for the parties whom he tells me to, whom he says are the most suitable and for the best interests of the city."

Q. Did he call upon you more than once upon that subject? A. I couldn't say how many times; I saw him very often; I couldn't say how many times he called.

Q. Did he assign and reason to you why that contract of section 12 should be let to O'Brien & Clark? A. Well, he stated that certain people were very anxious that it should be let to them, and they should get it.

Q. Well, anything more; did he name anybody who was anxious? A. I don't know that he used any names, but he said he was talking to me by the book; that it was very important that that contract should go to O'Brien & Clark; that it might benefit somebody who was interested.

Q. Did he say whom, or did he use any other expression; that is to say that he was talking by the book? A. Well, he thought it would go far to help out the matter about those notes. * * * *

Q. What reason did Muller give you, in detail for asking you to support in the Aqueduct Commission, the bid of O'Brien & Clark for Section No. 12? A. He didn't go into very much detail; our conversation necessarily from the relation in which we had been placed by the Governor, was very short and crisp; he simply wanted that done and asked me to do it, and that I knew why he asked it.

Q. I understood you to say that in that conversation between Muller and yourself reference was made "to those notes," and I was curious to know how you knew what notes, and, if you did, what notes they were? A. Well, in the various conversations that—

Q. (Interposing.) I am now referring to conversation in which he asked you to vote for this contract? A. I had heard of the notes, of course, because he made an application to me to take up one for \$5,000; of course, I immediately, when he said that \$2,500 would be very acceptable, started out to see if I couldn't raise that money, desiring to have the credit, at least, of having contributed to that note; and I saw Mr. Flynn, and I saw Mr. Newcombe, and I saw Mr. John O'Brien, and from some one of them I learned that there were these notes out, I thought to the extent of three of them; whether one was a \$10,000 note, I don't know as I knew at the time.

Q. I am referring to a subsequent interview between Mr. Muller and yourself, as you narrated in giving your testimony, when he asked you to vote for the award of the contract to O'Brien & Clark; I understood you to say at that time that he gave as one of the reasons that

It would help take up those notes? A. Well, that is it; that it would help in the matter of those notes.

Q. Did he indicate in what way it was to help take up those notes? A. No; sir, that was all that was said.

Q. It was not quite plain from your evidence in what way you understood it to refer to the Governor's notes? A. I didn't know anything about any notes but the notes which I supposed he spoke of—the notes one of which he had talked with me about before, one of which he had come to me to take up.

Comptroller Loew gave his testimony with great reluctance, on the subject of the pressure brought to bear upon him by the Governor, as follows, (pp. 117, 118, 119, 120 and 122):

Q. Well, did Mr. Muller see you on any subject in connection with your votes on the Aqueduct? A. He did.

Q. State how many interviews Muller had with you and what he urged you to do? A. I only had one interview with him, and that was in relation to the three sections, 12, 13 and 14; he asked me if I could consistently vote to give the three sections to O'Brien & Clark; I told him I could not; he said he was very anxious to give the award to O'Brien & Clark for those three sections; that they were warm personal friends to himself, and that it would be some benefit to him if I could consistently vote for giving those sections to them; I told him I could not do it.

Q. Did he particularize in any respect how it would be a benefit to him? A. No, sir; he did not.

Q. Did he say anything about anyone else being benefited in any way except himself? A. He did not mention any names.

Q. Did he make any allusions so that you understood who he meant? A. Well, he said it would please some friends of mine, but he did not mention any names.

Q. Did you know, at that time, the relation which Mr. Muller held to Governor Hill? A. I understood that he was or had been the law partner of Governor Hill.

Q. And since he was Governor what did you understand his relations to be; did you understand that he spent much of his time at the Capitol? A. In Albany and New York it was a common rumor, that was all.

Q. Well, you had that understanding at the time he was talking with you on that subject? A. I had no understanding.

Q. Well, you understood that to be his relation at the time he was talking with you on that subject? A. From common rumor, yes, sir.

Q. Did you understand Mr. Muller to refer to some definite and particular person when he said it would be a matter of interest to your friends? A. Well, he did not mention any names.

Q. Yes, I know he did not; you say he did not; no doubt that is true; but did he not say enough so that you clearly understood to whom he did refer? A. Well, I don't know; I am not prepared to

answer that question because I don't know that he was authorized to make any statements for any one other than himself.

Q. Well, did his statement to you suggest anybody to your mind?
A. Oh, that might have done so, yes, sir.

Q. Well, whom? A. Well, I inferred that he meant somebody in authority in Albany; he mentioned no names.

Q. Well, in other words, you understood him as referring to Governor Hill, did you not? A. Well, I might have inferred as much.

Q. The question is, Mr. Loew, did you? A. Perhaps I did.

Q. Well, no one on earth knows whether you did or not but yourself? A. There was no names mentioned.

SENATOR PIERCE—The witness has stated a number of times that there were no names mentioned.

THE WITNESS—There was no names suggested.

Q. If Mr. Loew desires to be understood that he did not so understand Mr. Muller's allusions, and that no man was alluded to whom he could name or would name, why of course that satisfies the chairman, is that the way you desire to be understood? A. No, I do not want to be understood in that way; of course, there was an inference.

Q. And you inferred? A. And I inferred.

Q. And will you now tell the committee who you inferred? A. Well, I would rather not answer if I could be excused.

Q. Well, the committee feel as if it was a fair question.

SENATOR PIERCE—Well, I don't know as the committee does; I have no doubt what you are driving at, but I submit, that with as intelligent a witness as Mr. Loew, if he has a recollection he will state it.

CHAIRMAN FASSETT—This examination is to be conducted without fear or favor, and we desire to know all there is of it, if we can get it out, and I have no desire to conceal or extort either one way or the other. I should have stated that that was the view of the chairman and unless the committee decide otherwise I will insist upon an answer.

THE WITNESS—Well, I inferred it was Governor Hill.

* * * * *

Q. Was that request to vote for the awards of these contracts to O'Brien & Clark after the bids were opened and the amounts known?
A. Yes, sir; we had been considering them in executive session, and it was during that time that he called upon me.

Q. So that Mr. Muller requested you to vote to award these contracts to O'Brien & Clark without reference to amount, which would have been at a loss to the city of \$143,907? A. Yes, sir.

Mayor Grace had previously been informed by Thompson of the reason why Section 12 was wanted for O'Brien & Clark and he told the fact to Loew, and endeavored to dissuade Loew from voting for the dishonest award. He testified (p. 3,364);

Q. You told Loew? A. I told Mr. Loew, yes, sir.

Q. And said that he would destroy his record? A. No, I didn't say anything of the kind. He said that he felt bound to award that contract to Clark & O'Brien.

Q. Did he state to you, Mr. Grace, at the time why he felt bound to award it to them? A. No, sir; he did not.

Mayor Grace further testified on the subject as follows (pp. 3,301 *et seq*):

Q. You have seen frequent reference to certain notes of Governor Hill, have you not? A. Yes, sir.

Q. Did you ever hear of those notes during the political campaign of 1885, when Governor Hill was elected? A. I did.

Q. From whom? A. Mr. John Keenan came to me and told me there was about \$30,000 in notes of the Governor's which they wanted to get discounted. And he said it would be a good thing for me to take and discount part of them. That the funds to pay them would be provided for from other sources hereafter, and told me, in proof of his sincerity, that he himself would take care of five or ten thousand dollars of those notes.

Q. What did he say about it being a good thing for you to do, hereafter? A. He said it would be a good thing for me to secure the political friendship of the Governor.

Q. And what did he say about the notes being cared for from other sources? A. He said *they would be provided for from other sources hereafter*.

Q. Did he indicate the source? A. No, sir.

Q. Not at that time? A. No, sir.

Q. But what he said was that he wanted you to discount five or ten thousand dollars of those notes in connection with other political friends of the Governor? A. Yes, sir.

Q. That it would be a temporary matter and thereafter the notes would be paid from other sources? A. Yes, sir.

Q. Did he state what the Governor wanted the money for? A. For his political campaign, for his personal campaign.

Q. *Did he say whether he wanted it for the campaign expenses of the Democratic State Committee or for his own personal expenses?* A. No. *He said they were notes of the Governor put out for his personal campaign.*

Q. When did you hear of those notes again? A. Well, I want first to state that of course I did not discount any of the notes, merely so as to put it on the record.

Q. What did you say to him? A. I said that I wouldn't do it.

Q. Is that all? A. No. I told him I subscribed my funds to the general campaign when I subscribed any.

Q. Well, did you hear of those notes again? A. I did.

Q. When? A. Before the letting of Section No. 12.

Q. How long before? A. Oh, immediately before; perhaps within a week before the letting.

Q. And in connection with the letting? A. *I was asked to vote for the award of 12, 13 and 14 to O'Brien & Clark so that the notes might be provided for.*

Q. What notes? A. The notes, as I understood it, Governor Hill's notes.

Q. What was the amount of them? A. \$30,000. I don't know whether it was stated at that time what the amount was; but the amount I have in my mind was \$30,000, having been invited to take a part of those same notes before.

Q. Were these the same notes? A. I so understood it, yes, sir.

Q. How was the letting of this contract to Clark & O'Brien, material in connection with the payment of the notes. Was that explained to you? A. No. Except that I was asked to vote so that these notes might be provided for.

Q. Who asked you? A. Mr. Thompson.

Q. Hubert O. Thompson? A. Yes, sir.

Q. Then Commissioner of Public Works? A. He was ex-Commissioner of Public Works at that time.

Q. What did you say to that? A. I told him that I couldn't vote for any but the lowest bidder; if they were the lowest bidders I would be very glad to vote for them.

Q. Well, did he make any suggestion after that—any further suggestion about your action? A. He asked me if I would not absent myself from the meeting on that occasion.

Q. What did you say to that? A. I told him that the matter was too important and I couldn't do it.

Q. Did you make any attempt further than by personally voting in the negative to prevent the awarding of Section 12 to O'Brien & Clark? A. I did.

Q. State fully what you did in that direction? A. I sent for Mr. Rogers of Rogers & Co., who was the lowest bidder; had him appear before the whole of the Commission, stated the fact that he was the man who was doing the work on the adjoining section.

Q. What was the adjoining section? A. It was No. 11, I presume. He stated that he owned the machinery and that he was perfectly capable and competent to do the work. I then sent for the sureties, the gentlemen whom he had offered for sureties for the performance of his work, and before the whole Commission, examined them as to their competency as sureties, as to the property upon which they intend to justify, when they gave their bonds. I then sent for the Chief Engineer and asked him if it was true that Rogers & Co., were doing the work on the adjoining section, to which he replied, that it was. I asked him if they were competent to do the work and he said certainly. I then appealed to the Commissioners and proved to them by these facts that from a business stand-point there was nothing left for the Commission to do but to award to the lowest bidder. In addition to that I saw such Commissioners as I believed my influence would be of value with, and personally asked them not to destroy their records by voting for anything but the lowest bidder.

HILL'S RELATIONS WITH MULLER.

It is but fair to say, for the benefit of those who care to believe Mr. Muller, that he denied that he represented the Gov-

error in this transaction. He destroyed all faith in such statement, however, by adding that he never in any matter or instance assumed to or was authorized to represent Governor Hill—a statement, the falsity of which may be tested by anyone who is familiar with Hill's public or private acts. Muller contradicted, in some particular, nearly every witness, and it is not unfair to say that the only impression left by his testimony upon the minds of his hearers, was that of its cunning disingenuousness. It is unnecessary to go through the testimony and show Muller's close relations with Hill and his acts in Hill's behalf. He put the case as favorably to the Governor as he could, in his own testimony, (p. 3,600):

Q. What relation did you have with Governor Hill before he became Governor? A. After my term of office had expired as Recorder of the City of Elmira, I had a desk and practiced law in the same office with the Governor. Then in 1882 I went into partnership with him and remained his law partner until he assumed the duties of the office of Governor, when the President went to Washington.

Q. What was the name of the firm? A. Hill & Stanchfield.

Q. Were you a partner in the firm? A. Yes, sir.

Q. When the Governor removed to Albany did you move too? A. No, sir.

Q. Have you ever had a room in the Governor's house? A. I don't know what you mean by that.

Q. Isn't it a fact that you have lived in the Governor's house when you have been in Albany? A. It is a fact that I have stopped with him when I have been in Albany on business ever since he has been Governor.

Muller was, in fact, in Hill's office for over twenty years—David C. Robinson of Elmira testified, (p. 93):

Q. When, and in what manner, was he (Muller) first connected in business with Governor Hill? A. He came to Elmira to enter the office of G. L. Smith, Esq., and remained with him for some time; and Governor Hill went into partnership with Mr. G. L. Smith, I think, about 1864, if my memory serves me. Mr. Muller was then there.

Q. After Governor Hill became Governor of the State, what proportion of the time has Mr. Muller spent in Elmira? A. Well, I have seen him there, off and on, two or three days at a time, perhaps six or eight times a year.

William Sheehan, Hill's representative in the Assembly was forced to make this admission, (p. 3,123):

Q. Do you know of any person who was more intimate with him (Hill) than Mr. Muller? A. He was intimate with him. I don't know whether any person was more intimate with him than Mr. Muller.

Mayor Grace testified, (pp. 3,315 and 3,392):

The Governor said to me that Mr. Muller was always here in New York; that any communications of a confidential character with him, if I desired I might have with Mr. Muller, and look upon him as representing him.

Squire testified (p. 31) that in January, 1886, the very time when Muller was at work getting Section 12 awarded to O'Brien & Clark, the Governor said to Muller in his presence:

If at any time hereafter Mr. Squire desires to reach me and does not care to come to me, desires to communicate with me and does not care to write to me, that he may find you, and that anything you may say to him he may regard as coming from me, and that anything he may say to you he may regard as being said to me, and I have cautioned him not to let anyone else occupy that position with him.

Let anyone who still doubts Muller's authority to represent Governor Hill in his deals, consider the one fact that it was Muller who procured the notes originally; or let such doubter seek out any democratic politician of the lower grade and ask whether in his bargains with Hill, Hill has not been represented by Muller, ever since the days of Tweed; or let him inquire how often Muller has been "employed by insurance, underground railway, subway, electric light, telephone and other corporations" to obtain executive signatures. He will not find the evidence hard to get.

HILL'S NOTE TAKEN UP.

The foregoing quotation shows that soon after Hill had secured Section 12 for O'Brien, he was relieved from further liability upon the \$10,000 note, and Maurice B. Flynn having an interest in the contracts and being in good credit, was called upon to furnish the required additional endorsement in place of Hill. When Flynn, however, found in the December following, that Section 12 was merely a "Political Section" without profits for him, he withdrew from the obligation, gave up his claim on the section to O'Brien, and left him to pay the notes out of his profits. His interesting testimony on the subject is at (pp. 211 to 216):

Q. What was there about Section 12; were you interested in that?
A. No, sir.

Q. Why not? A. Oh, I don't know; I surrendered my interest in Section 12 for interests of my own.

Q. Who asked you? A. It was by mutual agreement between Mr. O'Brien; I stated to both Mr. Clark and Mr. O'Brien that I would not insist upon an interest in Section 12.

Q. Why not? A. I had my own reasons.

Q. Were those reasons stated? A. I was willing to surrender the interests that I had; I was thinking of that after having examined into the way the works was going and prospective profits.

Q. Were you at this time an indorser on that note? A. I was.

Q. How did you come to go off and cease to be an indorser; it appears that you did at some time? A. It was understood at the time I signed it, the last time, that it would be paid at its maturity.

Q. Out of what was it to be paid? A. Well, it ought to be paid; it was to be paid of course by money,

Q. But where was the money to come from? A. I don't believe that it is proper for me to make any statements in regard to that.

Q. Now I ask you this question, whether it was not said to you, at or about the time you ceased to be an indorser on this note, or while you were an indorser upon the note that you ought to give up your interest in Section 12, or claim no interest in Section 12, I don't care which way it was put—because the profits of that section ought to be appropriated to the payment of this \$10,000 note? A. There was conversation of that character.

Q. With whom was that conversation? A. I had that conversation with Mr. O'Brien and Mr. Clark.

Q. What was said on that subject? A. I said to Mr. O'Brien when the question of obtaining Section 12 and knowing of the amounts he had been compelled to subscribe for political purposes, which I regarded as perfectly legitimate, that the interest or profit of this Section 12 should be set aside for the purpose of relieving him and myself, and anybody else who had obligation, from any obligations on account of political assessments.

Q. What political assessments was referred to? A. There was this note of \$10,000, and another note of \$5,000, and there has been some more or less little assessments for other purposes—local assessments.

Q. It was two notes then, one of \$10,000, and one of \$5,000 given by Governor Hill? A. I only know about the \$10,000 to take up Governor Hill's note and this other \$5,000 note, was money which had been used just before election, and at that time Mr. Clark thought it was proper, when I mentioned to him as I did, he concurred with me in the suggestion that it was proper that Mr. O'Brien should not bear all the political assessments, but that he should bear his proportion, and that the other people who were interested should not claim any interest in Section 12, but should surrender that interest, which I did in order that out of the profits that might be made in that, should be paid these assessments.

Q. Then you say that Mr. Clark, at the time of this conversation,

did not object to the funds contributing to profits realized on Section 12, to the payment of those obligations? A. No, sir; he did not object, and there was no reason why he should saddle it all on Mr. O'Brien.

Q. Why not? A. Because if there were any benefits by reason of political assessments—there was a long line of Aqueduct on which they were at work, and they had a number of men employed—they were liable to suits for damages, etc., and the same reason they had for subscribing, the same as any corporation ever subscribes for any political purposes; and it should be paid by the parties having the contract.

Q. I ask you if your contract on the one-sixth interest included all the work that they were doing on the Aqueduct? A. That was understood.

Q. The original contract? A. The original contract was the contract obtained by them in the construction of the Aqueduct, and had not at that time been let; the understanding was that it included all the work.

Q. What was the interest of O'Brien & Clark in that work; Mr. Clark didn't seem able to recall and define exactly what their interest was, do you know what it was? A. One-half, three-sixths.

Q. And other parties had the three-sixths; and you say, as I understand you now, that outside parties were required to surrender their interest in Section 12, that the profits on that section might be appropriated by O'Brien & Clark to the payment of these obligations? A. I will not say that the other parties agreed to that; I understood at the time that they did; I cannot state any definite conversations with the other parties by which that was indicated to me; I only know that I did it.

Q. And you did it supposing that the others would do so also? A. Would do likewise, yes, sir.

Q. Did you ever have any talk with Muller about the \$10,000 note? A. I don't think we ever particularly discussed the \$10,000; as I have stated before, I told Mr. Muller that I had relinquished my interest in Section 12, and that those notes would be paid as they were finally paid.

THE AQUEDUCT COMMISSION RE-ORGANIZED—THE MAYOR AND COMPTROLLER REMOVED.

This brings us to the passage of Chapter 337 of the laws of 1886, by which the Aqueduct Commission was re-organized in the interest of O'Brien & Clark. Up to this time O'Brien had never been quite able to procure from the Board such decisions and allowances for "extra" work, as he had expected and such as he afterwards obtained from the re-organized Hill Commission. Grace had opposed him vigorously, and Loew had far from met his hopes. McCulloh, the Secretary of the Board, had stood on guard and was incorruptible. Some of the Assistant Engineers also were not subservient to him. Space will not

permit quotations but it was fairly proven that O'Brien originated the substitution of Grace and Loew, by Ridgeway, Fish and Barnes for the reasons above indicated. (See Loew pp. 115, 121, Flynn 222, McCulloh 2,980, 2,989, 2,990, O'Brien 3,474, 3,475, 3,478.)

HILL TAKES PART.

His friends have pretended that Hill had no part in the re-organization until the bill came to him from the Legislature. Whether this is true, may be inferred from the activity of Muller and William Sheehan the accredited representative of Hill in the Assembly while the bill was pending in the Legislature. Flynn says (p. 222) that he frequently met Muller in O'Brien's office at that time. It is hardly credible that all the "sharp work" as O'Brien called it, in putting the bill through, was done by these intimates and representatives of Governor Hill without a full knowledge that the bill would not be vetoed, if passed.

The scheme was put on foot just before the \$10,000 note fell due and Hill was relieved therefrom. It was deemed judicious by its promoters that the bill when introduced should provide only for the addition of three new commissioners. The elimination of the Mayor and Comptroller was left to be inserted as an amendment at the last minute, though it was understood by those who were in the confidence of the conspirators that such was the ultimate purpose. (Squire 56, O'Brien 3,474, McCulloh 2,989.) Certain newspapers with persistent malignity have attempted to shield those interested in the bill, by attempting to hold the "Republican Legislature" as participators in a "deal." This is unfair and unjust. The bill was supported by every member of the Legislature, both Republicans and Democrats, except a few County Democrats, who acted from motives disconnected with the merits of the bill. Arguments in favor of the bill were furnished to the legislators by certain reputable persons who had been induced to interest themselves, perhaps in good faith. The plan to remove the Mayor and Comptroller, was unknown, nor were the relations of these city officers to the Commission understood. Thus when the Legislature had been impressed favorably by the bill, an innocent looking amendment was sprung on final passage, and before anyone realized what was being done, the bill was run through both houses during the rush of the last few days of the session. Every member of

the Legislature was guilty of intent to pass a bad law, if there was a "deal;" but a "deal" imports a consideration and no legislator seems to have received any benefit from his act. The charge may be well enough as "giff-gaff," but it has failed to protect those who induced the Legislature to pass the bill.

HILL'S HYPOCRITICAL EXPLANATION OF HIS APPROVAL OF THE RE-ORGANIZATION.

The memorandum filed by the Governor on signing the bill turns out to be a piece of lying and hypocrisy. He says :

I do not feel impelled to again thwart the action of the Legislature by antagonizing its deliberate judgment upon such a question.

* * * It is further represented that neither the Mayor nor the Comptroller, by reason of their onerous official duties, have sufficient time to give due and proper attention to the work of the Commission, and that the efficiency of that body will be greatly promoted by the substitution of citizens who hold no other office whatever and who can give their entire time, if necessary, to the faithful and energetic discharge of their duties as commissioners. These are considerations which are certainly not without weight and which must unquestionably have influenced the Legislature in the passage of this act. *It is also understood that neither the Mayor nor the Comptroller was desirous of being continued as a member of the Commission. Neither they nor any of the local authorities of New York city, have protested against the bill, and in the absence of any such action on their part it may be assumed that personally and officially they acquiesce in the propriety of its provisions.* * * * I have with some reluctance concluded to formally approve the bill.

THE WITNESSES DISPUTE HILL'S STATEMENTS.

Compare this with the testimony of Judge Spencer, (pp. 70 and 78) :

Q. After this bill re-organizing the commission passed the Legislature, and was in the hands of the Governor, did you visit the Governor on the subject of the bill? A. Yes, sir.

Q. Who went with you? A. No one.

Q. You went alone? A. Yes, sir.

Q. Did you have an interview with him on the subject of his approval of the bill? A. Yes, sir.

Q. What did you say to him? A. *I said all I could think to say, in favor of his vetoing the bill.*

Q. You could think of a good deal to say, couldn't you? A. Well, I think we had an interview of over an hour in the executive chamber by ourselves. * *. After this bill had passed the House and the Senate, it was called to the attention of Commissioners Baldwin,

Dowd and myself; we took hold of it, and interested ourselves in it, and I prepared a memorial to Governor Hill on the subject, which was signed by myself and Mr. Dowd and Mr. Baldwin; I took that and went to the Governor with it, and read it to him, and followed it with all I could think of saying, as I said before in the matter; I left it with him; I haven't that document; I had a copy of it somewhere; I haven't looked for it, but I think I could find it.

Q. Did you say anything to the Governor about protests against the bill being prepared in the city of New York to be forwarded to him? A. Yes, sir: I did; I told him that I was informed before I left New York that there were petitions to him; addressed to him protesting against his signing the bill.

Q. Did you repeat to him what you understood to be the public sentiment in the city of New York on the action of the bill? A. I did, sir.

Q. What did you tell him the public sentiment was? A. Well, that public sentiment was against the bill.

And compare Hill's statement, also with the sworn statement of Mr. Grace (pp. 3,309, 3,331, 3,342):

Q. Well, now state how you protested against it. Where you saw the Governor, if you ever saw him, and exactly what took place between you and the Governor? A. I believe it was the last time I ever saw him so that I do not forget it. That is to say to have any conference with him. The Governor either sent for me or I went to call on the Governor at the Hoffman House.

Q. When was that with reference to the bill? A. Between the time that the bill passed and the time that he gave his approval of it. He came down to New York, and I don't remember whether he sent for me or I went to see him. I then told him that he must remember that the Mayor and the Comptroller of the city of New York—that the then Mayor and Comptroller—were specifically elected by the people with a view of their having the duty of the care of the Aqueduct upon them. That it was a clean issue put before the people in the campaign. That Mr. Squire—that if they were removed, that the city would be left represented by nobody except Mr. Squire, whom I thought he knew and I knew was an entirely unfit representative of the city of New York and unreliable. I went on to explain to him that he had said to me and that he had said in public before his election, that he would be faithful to the principle of Home Rule for cities. That as a Democrat and having made such pledges, that it would be his political destruction if he ever signed a bill that would remove from that great work the only guardian who had been elected by the people to care for their interests. After considerable talk the Governor said to me, "Well, you are a man of many protests, but I tell you now that I will have that bill called back by the Senate and amend it putting back the Mayor and Comptroller or it will never become a law." In consequence of that I, of course, made no written protest, taking the Governor's word as sufficient guarantee to me that the bill would not be passed.

Q. Did he ask you whether you personally desired to remain on the Board? A. He did. I told him that my personality had nothing to do with it. That as a public official that *I must protest against the removal of the Mayor and Comptroller.* * * *

I have never had the pleasure of calling on the Governor of paying my respects to him since he failed to do what he said he would do, and that is in respect to signing the aqueduct bill.

HILL'S "RELUCTANCE" TO SIGN THE BILL!!

The Governor's "reluctance" to sign the bill is vividly described by Squire, (p. 46.):

Mr. Muller came to me and wanted to know why I was opposing the aqueduct bill; "Well" I said, "the aqueduct bill is not in harmony with the Bruns bill;" "Well," he said, "that Bruns bill is a pretty bold bill, it is attracting a great deal of attention in the community, and will meet with no little opposition;" I said, "It is not infrequent that the bold things are the things that obtain," and declined for quite a length of time to lend my countenance to this bill, and finally we had a consultation on the subject and it was considered by those who were friendly to this bill, that this bill had better pass; Mr. Muller said that "in any event, Mr. Squire, the Governor don't want the Bruns bill to come to him at this juncture." I said, "What do you mean by that?" I said, "Do you mean to tell me that the Governor wants the aqueduct bill to come to him, to sign it, and then have the Bruns bill come to him, and then sign that, when one will knock the other out of time? If you have got any purpose in your conversation with me, you certainly don't want to be so illogical in your conclusions." "Well," he said, "the fact is, Mr. Squire, the Governor don't want the Bruns bill to come to him at all; he wants the aqueduct bill to get by the Bruns bill;" I said, "What is there in the aqueduct bill that will be more advantageous to you, with a friend at court, than there is in the Bruns bill?" "Well," Muller said, "suppose you should die in thirty days after the Bruns bill passed, placing the Aqueduct and its future in the control of the Commissioner of Public Works, Mr. Wm. R. Grace would have usure then, because he would have the appointment of Commissioner of Public Works." I replied, "Mr. Muller, a man don't die in thirty days and at least with any promissory notes out; perhaps I had better issue a few promissory notes to insure my life;" "Well," he said, "I suppose I need not say anything more to you, Mr. Squire, than that it is the Governor's desire that the aqueduct bill shall get ahead of the Bruns bill;" I said, "If it is the Governor's desire, as you are his spokesman, I shall call off my dogs and let the aqueduct bill ahead of the Bruns bill;" the Bruns bill had already been called to the front by a vote of seventy-one in the Assembly, and we notified those having interests in that matter that the Commissioner of the Public Works no longer wanted the Bruns bill.

On the same point, W. V. Smith, said, (p. 250):

I was coming down from Albany one afternoon on the cars, just before the (aqueduct) bill came out of the Senate Committee, and I was talking to Mr. Hoysradt, who I think introduced the bill; I was talking to him against the bill for I was opposed to the bill individually, and up to that time I had no particular instruction about it one way or the other; and Mr. Muller was on the train, and Mr. Muller saw me talking to Mr. Hoysradt and he called me out on the platform, and he says, "What do you mean by opposing the aqueduct bill? *Don't you know that the Governor wants that bill to come before him?*" "Well," I said, "if you want that bill to come before the Governor, why don't you say so?" "Well, I do say so." "Very well," I said, "I will shut up; and I shut up."

According to McCulloh, Muller was even bargaining for places under the re-organized Commission, while the Governor was so reluctant to approve the bill. (p. 2,992.)

Q. Who told you that the Governor was to have the appointment of your successor? A. The first person who ever spoke to me was my brother-in-law, Judge Green, Ashbel Green. He said to me, "Have you understood that you are the one to go?" I said, "Yes;" I said "I have been trying to find out who it was," and he said, "Well, I will tell you who has been gunning for you, it is Judge Muller." Then I said, "I understand what it all means."

THE HILL COMMISSION.

The re-organization Act authorized the Governor to appoint the three new commissioners within ten days, but he sent the names almost simultaneously with the approval of the bill. If the consideration of this fact, together with the subsequent conduct of the new Commissioners, fails to satisfy anyone that the appointments were made in pursuance of an understanding between Hill and the contractors, a few references to the testimony will be convincing. The only one about whom there seems to have been any uncertainty at all was Ridgeway.

Judge Spencer testified as follows (p. 75.)

I am very confident that somebody told me that Mr. Fish was going to be one the Commissioners to be appointed if the bill was approved, and also Mr. Barnes; I didn't hear the third man until after the bill was signed—after the name went in.

Mr. Ridgeway states he had no intimation of his selection until he was appointed. This is very remarkable, as it was quite well understood in Albany that he would be appointed.

Wm. V. Smith testified that he "understood that Mr. Hamilton Fish was to be a Commisisoner under that bill from the start." (p. 251.) Also he said (p. 252.):

Q. When did you hear that Mr. Ridgeway was to be a Commissioner? A. Shortly after the bill was passed.

Q. Who told you? A. I couldn't tell you; I give it up: I heard that the same as you will hear anything; it was in the air.

Q. How about Barnes? A. Well, that was in the air too? I don't remember who told me.

Flynn says, (p. 224.):

Q. When did you first hear of Mr. Ridgeway? A. I had known Mr. Ridgeway for some time, and Mr. Ridgeway's name was mentioned, as was the name of quite a number of others.

Q. You said something about O'Brien's not telling you who the Commissioners were to be; did he ever state at all previous to the passage of that bill who the Commissioners were to be? A. I have stated before that there were a number of names talked about, among which number were the names of the present Commissioners, and that O'Brien did talk of the number—say seven, eight or ten probably—but never did indicate to me that the people who were finally appointed were absolutely, although probably sure of the appointment.

Barnes, the engineer, was undoubtedly the most important of the new men to the contractors. That his appointment was made at O'Brien's request and was fully determined upon beforehand, is shown by the evidence of several witnesses. McCulloh (p. 3,001) testified:

I told Mr. Dowd, if I recollect now, (there was so many things occurred there I don't want to be absolutely positive about that), but Mr. Dowd asked me if I knew anything of Oliver W. Barnes; I told him yes; that he was a railroad engineer and had been engaged on the South Penn and other roads of which I had some information, and that I had heard that he was to be one of the Commissioners and that Hamilton Fish was to be another; the third one I hadn't yet found out who he was to be.

Alfred Craven testified (pp. 485, 489):

Q. Was Mr. Barnes the only one of the probable appointees that you heard discussed? A. He was the only one mentioned. * * *

Q. Are you able to state whether this conversation which you had in regard to Mr. Barnes was after the bill had passed the Legislature or not? A. As I stated the conversation was before the appointment was made by the Governor; whether it happened before the bill passed or not, I don't know.

O'Brien himself was forced to admit part of the transaction, (p. 3,485):

Q. Who was there when you went into the Executive Chamber to see the Governor? A. Judge Muller and Colonel Rice.

Q. Where was the Governor? A. He was there too.

Q. Did he ask you to mention some names? A. I don't think he did. I think I volunteered the engineers names. The others I made up my mind I wouldn't say anything about. As long as there had to be one Republican, I was satisfied that Fish should be made one of the Commissioners.

Q. When did you first know who any of the other Commissioners would be? A. I did not actually know of the others until after the names came to the Senate.

Q. When did you first hear their names mentioned? A. Well, I had mentioned the names of four or five engineers to the Governor, among them Curtis and Barnes. I sent a list of four or five engineers to the Governor.

Q. And among them was Barnes? A. Yes.

Whether O'Brien actually participated in Ridgeway's appointment is of slight consequence, as their intimacy is apparent to every frequenter of the Hoffman House, and the record of the Aqueduct Commission shows that Ridgeway has been the most diligent Commissioner of all in executing the schemes of O'Brien.

Barnes may be summed up in a few words: He was in business with O'Brien before he was appointed. He was appointed at the request of O'Brien. He has borrowed large sums of money from the contractors. It is needless to say how he has represented the City's interests. One example is enough, it was he who, in the absence of Commissioners Newton and Dowd put through the resolution by which the contractors were permitted to put rubble masonry over the arch of the tunnel at \$5 per cubic yard.

Mr. Fish frankly says that he entered into the plan of increasing the Commission with the hope of being appointed a Commissioner because in his judgment, "it was wise to increase the Republican end of that Commission, *in order that the men should not be voted solidly for the Democratic Party.*" With this object he used his name and influence in the passage of the bill, and his friend Senator Hoysradt called upon the Governor with reference to his appointment as the Republican member of the Commission. He swears that he did not know that the Mayor and Comptroller were to be left off from the Commission, until

shortly before the bill passed, and that he disapproved of that modification, (pp. 699-707). Mr. Fish may have made a mistake of judgment but that is all there was of a "deal," so far as he was concerned, and if the Democratic press find in it ground to condemn Mr. Fish, they do so simply in the hope of making him a scapegoat for guilty Democrats. It is no answer to charges against Governor Hill to howl "*Ham.*" "*Fish!*"

The new Commissioners, with Squire, furnished the majority necessary for the removal of McCulloh and the unmanageable engineers, leaving the way open for the frauds which immediately followed. It has already been told how the Governor coerced Squire into supporting him in 1885 by threats of exposure.

A MAJORITY OF THE HILL COMMISSION PROCURED BY THREATENING SQUIRE.

At this point, as well as any, it may be recounted, not only how Squire was compelled by the fear of Hill to cast his vote as an Aqueduct Commissioner in favor of the conspiracy against the City, but how the Governor, with full knowledge of Squire's crime, suppressed the incriminating Squire-Flynn letter and protected him from exposure and punishment for many months, in consideration of the patronage of the Department of Public Works, and how when Squire had been finally exposed by Ivins and removed by Grace, and was of no more use, the Governor violated the compact between them and formally approved his removal. The evidence shows the Governor to have been guilty of compounding crime, debauching a public office, and base treachery. Let the record speak; First, there is the story of Mr. Ivins, how he communicated the facts to Governor Hill of Squire's crime. (pp. 100 *et seq.*)

A. I went to Albany on the afternoon train on the 2d of March, 1886. I met the Governor at the Executive Chamber late that evening I told him of my fears about the proposed Bruns legislation; I told him about my fears about the proposed—although as yet not introduced—aqueduct bill; I told him that I thought he ought to know just what manner of man Mr. Squire was, and I showed him that letter, a copy of which I had taken—not the original; we had a long and very serious talk; too long for me to relate in detail.

The Chairman: The substance of it will answer.

Q. Was the subject of whether that letter was criminal or not discussed between yourself and the Governor? A. The Governor read.

the letter over very carefully and in general terms expressed his opinion that it was a curious document.

Q. It would not take long to reach that conclusion? A. He asked me how I got it—a copy of it—and I told him; I told him the history of the letter as it had been told me by Mr. Thompson, and gave my authorities, and told him that Mr. Squire was a man who, instead of having enlarged powers ought to be removed from office; and that if I could ever get possession of that original letter I should immediately turn it over to the proper authorities so that a charge might be based on it.

Q. What sort of a charge? A. This was a civil charge for his removal from office that I was then talking of. * * * That led to the discussion as to whether or not the letter was cause for criminal action; the Governor asked me if I had looked into it; and I told him I had very carefully; we moved over to the rack and got the Penal Code and studied the sections together; there were two sections one of which refers to the crime, crimes or misdemeanors of a general class, of a person who abstracts a promise to surrender official power, and the other of a general class of a person who makes a promise to render official aid or surrender official power; we discussed as lawyers will, the phraseology of the sections in a good deal of detail; when we got done the Governor said he did not think that the letter, and the facts antecedent to that letter, would constitute a ground for a criminal prosecution; he did not think an indictment based upon it could be sustained; I then asked, if I got a copy of the letter and gave it to the Mayor and charges were preferred on it, whether, in his judgment, it would constitute a ground for his removal from civil office, and he said he preferred not to talk about that; that there might be a doubt in the matter; he might be the final arbitrator in the matter; *he said there had been enough scandal already in the Democratic party and he hoped there would not be any more; and finally said that he should not be predisposed to co-operate with me in this matter at all,* unless Mr. Squire were indicted and convicted; I told him that I did not feel particularly hopeful in that regard; he then told me that he felt sure that I would never get the original; and again asked me whether or not I was perfectly sure the original was in existence; I asked him if he knew anything about it before this, and he said *that he had heard rumors that some such document had been once in existence.* * * *

Q. Was there anything further said by Governor Hill deprecating the discussion of these questions in public—party questions—washing dirty linen or anything of that kind; did he say anything about holding people responsible who persisted in bringing these public scandals in the Democratic party to light; did he say anything on that subject, and if so, what? A. The Governor did appeal to my Democracy, although he did not appear to have very great faith in it.

Q. What did he say on that subject? A. *He said we had had enough of this boodle business and scandals and that sort of thing, and it was very dangerous for the party to have any more of it and that this was a very dirty matter and that he hoped that it would not be necessary to have it disclosed to the public;* I told him I thought there

was one way in which that disclosure could be avoided; I was perfectly satisfied that Mr. Squire knowing Mr. Grace's hostility to him, *was only sustained in his attitude by the Governor's friends*, and if the Governor would say to Mr. Squire that he ought to resign from the office, I had no doubt Mr. Squire would resign, and that the whole purpose would be accomplished; that the doubt as to whether or no this was a criminal matter or not could be settled; that the purpose for which a civil proceeding officially brought by the Mayor would be accomplished; and I thought his intervention would end the whole matter; he said he did not think he had any right to interfere in the matters of factional squabbles in New York city; he put it on that ground.

Q. That was his answer, and all his answer to that suggestion?

A. That was.

At the time of this conversation with Mr. Irvin, Hill and Squire were acting under an agreement which will next be noticed.

HILL PROTECTS SQUIRE. SQUIRE TRANSFERS HIS APPOINTING POWER TO HILL.

Take the story of Squire (pp. 29, 31, 35, 52, 62, 91) of his bargain with Hill:

Q. Now, we will come down to the Jefferson Dinner given in New York, in January, 1886; do you remember the place where that dinner was given? A. I think it was at Delmonico's; I was there.

Q. Was Governor Hill there? A. Yes, sir.

Q. What occurred that night between you and Governor Hill? A. As I was passing out of the room, Governor Hill tapped me on the shoulder and asked me if I would come around and see him the next day, at 11 o'clock, and I told him I would, and did so.

Q. Where did you see him the next day? A. At the Hoffman House.

Q. What occurred between you there? A. We had considerable talk touching the matters which had been more or less under discussion with us whenever we had met, and the fact that the fighting had grown a little hotter since the letter had gone into the Mayor, and the Governor assured me that there was nothing in the matter at all; that my explanation of the matter was satisfactory, entirely so; that there was no doubt that if the Mayor could make no more showing of the case that he had made—he had had half a dozen charges preferred against Squire, which had fallen to the ground, and his own case had not been important enough to put before the public—and that I need give myself no anxiety; that *if I did not get convicted in a criminal court, in matters connected with my department, where he couldn't stand by me, that I might be certain that I should find him behind me; I told him that was very pleasant for me to hear, and I said: "Governor, if there is anything*

*in the Department of Public Works that I can properly and in order put at your service, let me know. * * **

When we left the Governor's bed-room, we went out into the drawing-room; I think there were three rooms there, a bed-room on each side of the drawing-room. The Governor called Mr. Muller, and he said: "Mr. Muller, I have had a long talk with Mr. Squire, and a satisfactory one, and I want to say to you now, that if at any time hereafter Mr. Squire desires to reach me, and does not care to come to me, desires to communicate with me and does not care to write to me, that he may find you and that anything you say to him he may regard as coming from me, and that anything that he says to you he may regard as being said to me; and I have cautioned him not to allow anyone else to occupy that position with him; because there are a great many people who will be likely, Mr. Squire, to approach you and say that they want this, that or the other, and that it is the Governor's desire. Whenever Muller talked with me after that meeting, whenever he wanted anything to say in the department—a man appointed from the northern part of the State or the southern part—he always said: "Governor Hill would like this done," and it was not necessary for him to mention any names to me because I had been instructed that when he talked with me the Governor of the State was talking. He came very rarely to the department, but then I saw him often at the Hoffman House.

Q. And you talked with him frequently? A. I saw him often; he not infrequently sent for me.

Q. After this talk with the Governor in which he introduced Muller to you, on the occasion of Mr. Muller's visit to your office, did you introduce him to your deputy? A. Yes, sir.

Q. Who was your deputy at that time? A. William V. Smith.

Q. When was William V. Smith appointed; when did he become your deputy? A. In the month of February, 1886.

Q. Succeeding D. Lowber Smith? A. Yes, sir.

Q. What occurred between your deputy and Muller and yourself on your introducing Muller to him; what instructions did you give him, if any? A. I introduced Mr. Smith to Mr. Muller, and I said: "Mr. Smith, the Governor took me to Mr. Muller," and I then related the conversation which took place between the Governor and myself, and Mr. Muller, and I continued: "Mr. Smith, I have said to the Governor that anything I can properly and in order do to serve him, as far as the Department of Public Works is concerned, will be cheerfully done: he has made Mr. Muller his spokesman," to which Mr. Muller assented; "and therefore, any request that Mr. Muller may make of you, if it can properly and in order be granted, do so, without delay or questioning."

Q. Afterwards did Muller make requests of your department, which were granted? A. Yes, sir.

Q. Have you a list of names that were appointed in your department on Muller's request? A. I don't think I have; I made the great mistake of letting the City pay for the books in which they were entered and therefore I left them behind.

Q. Were any appointments made? A. Yes, sir; I think a list can

We got at—several of them representing the various counties in the State to quite an extent.

Q. Several appointments? A. Yes; requests were made that the men should be appointed, and whenever I learned that it was the wish of the Governor, it didn't make any difference whether the appointee came from New York County or Chemung or Elmira or elsewhere.

William V. Smith corroborated the foregoing statements thus, (pp. 241, 246.):

Q. Did you ever see Muller? A. Yes, sir.

Q. Do you know him? A. Yes, sir.

Q. How long after your appointment did you see him first? A. Only a few days.

Q. Where did you see him? A. At the Hoffman House.

Q. Under what circumstances? A. Mr. Squire took me up to the Hoffman House and introduced me to Mr. Muller.

Q. Tell the committee what was said at the time of the introduction: give us the conversation in full? A. Mr. Squire said that he desired to repeat the conversation before me in order that I might distinctly understand what I was to do; he said to Mr. Muller, you will remember that the Governor brought me to you and said that you would represent him; that a great many people would be coming to me and telling me that they came from him, and I wasn't to pay any attention to what anybody said, but Mr. Muller; anything that he, Mr. Muller, said to Mr. Squire, was to be regarded as coming from Mr. Hill, and what anybody else said coming from Mr. Hill, he would pay no attention to whatever; Mr. Muller said that is so; he said to me, "Mr. Smith, anything that Mr. Muller wants in the department that you can do properly you are to do it without any question."

Q. Well, after that conversation did Mr. Muller come to the Office of Public Works? A. Very seldom that Mr. Muller came there.

Q. Where did you meet him? A. I sometimes saw him in the Hoffman House and sometimes in the Stewart Building.

Q. Whose office in the Stewart Building? A. I think it was Mr. O'Brien's office.

Q. O'Brien & Clark? A. I think so, yes, sir.

Q. Did you also have letters from him? A. Yes, sir.

Q. Have you got those letters with you? A. I have some of those letters, yes, sir.

Q. Are they with you now? A. I have some with me, yes, sir.

Q. Have you got all of them with you? A. All that I know where they are just now.

Q. Now, what request did Mr. Muller make of you soon after this introduction by Squire? A. Well, he asked me about the men that were in the department, and I told him that perhaps the best thing I could do was to have a list of them made, so I had a list of the employees made with the salaries they were paid, and of the men for whom they were appointed, and gave it to Mr. Muller.

Q. How long after this introduction was it before you gave him that list? A. Not more than three or four days.

Q. Now state particularly to the committee what that list showed? A. That list showed the name of the man and the position he held; the salary he got and his reference; that is the man at whose request he was appointed.

Q. What did Muller do with list? A. I don't know.

Q. Well, did he take it away with him? A. Oh, yes; I gave it to him; I never saw it again.

Q. Now state whether or not, to what extent, if any, you made appointments at the request of Mr. Muller in that department? A. Well, I made the appointments that Mr. Muller asked for with very few exceptions, whenever I could.

Q. In other words, Mr. Smith, from the time of this interview between yourself and Muller and Squire at the Hoffman House, who controlled the patronage of your department? A. Who controlled the patronage of it?

Q. Yes, up to the time of Squire's removal. A. Mr. Squire.

Q. Who controlled Squire? A. Well, he did whatever he was asked to do by Mr. Muller.

Q. Was it not a recognized fact that the Governor of the State, through Mr. Muller, was controlling the patronage of the department. A. The orders to me were to do anything in the department that I properly could that Mr. Muller asked, and it was to be considered as being asked for by the Governor, and that I was to do it if I did it legally.

Q. And you did? A. Certainly; I obey orders, if I break owners.

Next read the testimony of Flynn, (p. 226):

A. I had an interview with the Governor in the early summer of 1886.

Q. Where? A. In Albany, at the Governor's house.

Q. Was that interview sought by yourself? A. It was; I went up there for the purpose of talking with him on the subject of Squire.

Q. Tell me what occurred? A. I saw the Governor and stated to him what Squire had several times indicated to me, that the Governor was inclined to sustain him; I told the Governor of the determined efforts that were being made by Mr. Thompson, and by Mayor Grace, and by Mr. Ivins to get rid of Squire, and of their efforts to use the letter which Mr. Thompson had retained, and which Squire supposed had been destroyed; I went over the situation very carefully with him; called his attention to the fact that the publication of that letter with the machinery of the law and the newspapers all against Squire, and largely under the control of the political powers, that existed in New York at that time, of the fact that Mr. Squire had made an alliance with Tammany Hall and had by that means secured the enmity of all the County Democracy people; I told him that Squire had stated to me that he, the Governor, was sustaining him, and that I believed that any intimation from him as to the propriety of his resigning would be regarded by Squire as almost equal to a command; the Governor listened very patiently, and said to me that he didn't see any reason why he should interfere in local squabbles in New

York city ; that evidently the County Democracy has selected a man for Commissioner of Public Works, whom for reasons best known to himself and which judging from the fact that they were persecuting him in this way, he might have some reasonable grounds for his action—that they had been fooled in their appointment, and that he was not going to mix in local political quarrels ; I said I didn't ask him to mix in, but I asked him to desist from interfering : he said he had not at any time told Mr. Squire he must not resign ; he had heard of his letter and the use that was proposed to be made of it ; that Mr. Squire's explanation of that letter ought to be a satisfactory one to anybody who knew the circumstances, and that he would not give any advice or any direction or interfere in the matter unless a charge was made against Mr. Squire and he was properly tried and convicted in a criminal court or removed by the Mayor, and after the matter came before him officially, and when that time arrived he would take it up and treat it as it should be.

Q. What was the date of that interview as near as you can fix it ?
A. It was in June, 1886, the latter part of June, I think.

Q. How fully did you and the Governor go over the contents of the Squire letter ? A. The Governor was familiar with it, because I think he had talked upon the subject before several times ; and I went over the matter and the circumstances as I have related them here to-day, and told him of the determination of the parties opposed to Squire politically to remove him from office ; I said that I believed they were desperate and would not stop at anything necessary to accomplish the purpose for which they set out, namely, to remove him from office ; he said that he considered the facts, if they were shown, about that letter to indicate that Mr. Squire could not be removed from office on account of it, and if Mr. Squire had done anything in office by which he deserved removal he would be the first to suggest or the first to co-operate, that he should be removed, if there was any maladministration of his office ; but he didn't want to mix in political matters, and would not engage or participate in local political squabbles in New York city.

Q. What did he say on the subject of the letter itself being a sufficient cause for removal ? A. The Governor knew of the facts as stated to him by Squire and as corroborated by me of the manner in which the letter was retained, of its destruction, and of the belief of Squire when he entered the office that he was free from pledges or obligations and with those facts impressed upon his mind he did not believe that any attempt to remove Squire because of that letter would succeed ? He would not say to me that he had never advised Squire not to resign or to remain : I cannot say that in answer to that there was any comment, because I saw he was getting tired of my conversation—most people generally do—and I left.

Q. Did you say anything to the Governor on the subject that there was no benefit that could accrue to him by his being able to continue to control the public works of the city through Squire that was commensurate with the injury that would result to him if he continued and persisted in sustaining him ? A. I went over the political situation as fully and pleaded with him as eloquently as I could

to encourage him to say to me that he would intimate to Mr. Squire his desire to have him resign, I told him that I didn't believe he could afford to have it understood, and I said it was pretty generally understood among the politicians in New York that he was sustaining Squire.

HILL ATTEMPTS TO BULL-DOSE THE DISTRICT ATTORNEY.

And finally read what Ivins says of the occurrences after Flynn's return from Albany, (p. 109):

Mr. Flynn said he had come from the Governor; that the Governor had advised him not to consent to the use of this letter; that it was not to be surrendered or used; that if it were, and a prosecution was based on it, the Governor might have something to say about it; Martine asked what he meant, and he said: "You must remember that the Governor has power to remove District Attorneys." Martine said: "Is that a threat from you to me, that if I try Mr. Squire on an indictment based on those charges, the Governor will attack me?" Mr. Flynn, whether speaking truthfully or not, I do not know, said: "Yes." It then appeared to be Mr. Martine's turn to get angry, and he lost his temper and said that if the Governor sent such a message as that to him he would find that he had to deal with a man who shouldn't respect any such a threat, and as far as he was concerned, he should base a charge on that most iniquitous document, and the public should then judge between him and the Governor; he was ready to accept such an issue.

THE HILL COMMISSIONS' OUTRAGES.

The Commission was re-organized under the act removing the Mayor and Comptroller late in May, 1886, and the Squire-Flynn letter was exposed and published on July 29, 1886. During the interval the best use was made of Squire by O'Brien. By his deciding vote the engineering force was "re-organized" for O'Brien; the construction committee of the Board was organized to suit O'Brien; and the greatest outrage of all was perpetrated, McCulloh was removed from the secretaryship at O'Brien's dictation, and against the emphatic remonstrance of all the commissioners not in the conspiracy. This was done the very day before the publication of the Squire-Flynn letter. The evidence on this subject shows just how Squire was bulldozed and finally betrayed by Hill. Squire says (p. 48);

Q. When was the removal of Mr. McCulloh first suggested to you, and by whom? A. It was first suggested by Mr. Muller, a short

time before the removal of Mr. McCulloh ; I cannot give you the date.

Q. State what occurred at the time it was suggested to you ?

A. I had already stated that it was suggested by Mr. Muller at the Hoffman House.

Q. Who was present ? A. Mr. William Sheehan and the present Secretary of the Commission.

Q. William Sheehan is the brother of the present Secretary ?

A. Yes, sir.

Q. He is a member of the Legislature ? A. Yes, sir.

Q. Go on and state what occurred ; what did Muller say at that interview ? A. He said he had sent for me to introduce me to the Messrs. Sheehan, and stated that it was desired that Mr. Sheehan should be placed in the position then occupied by Mr. McCulloh ; I said it was rather a difficult thing for me to take a hand in anything of that kind because Mr. McCulloh was a personal friend of Mayor Edson, and a sort of protégé of his, that I was not, however, under any obligation to the Mayor on that subject ; Mr. Muller said : " Well, *this is desired by the Governor*, Mr. Squire," and I think I said to Mr. William Sheehan, " Is that the case, Mr. Sheehan ?" to which he responded in the affirmative, and I said, " That being the case, Mr. McCulloh, will be removed if my vote will do it." It was desired that, that should be put through the next Wednesday. I said, " No, I decline to take a hand in it next Wednesday, because I want a little time on that matter of my own ; I want to see Mayor Edson and state the situation to him ; I want to see Mr. McCulloh, and state the situation to him ; I may not be able to preserve the kind feelings of either one gentleman or other, but I certainly shall endeavor to keep the respect of both of them ;" and it was understood that it should go over until a subsequent Wednesday. In the meantime I saw Mr. McCulloh, and told him I was going to vote for his removal : I said, " I come and state that to you, Mr. McCulloh, not hoping to continue to enjoy the kindly feelings which you have heretofore expressed for me, but I want to preserve your respect if I can ; I shall do nothing underhanded ;" I went to Mayor Edson and I told him I proposed to vote for the removal of Mr. McCulloh with the same view.

Q. Did Muller state to you why the Governor wanted Mr. Sheehan to take McCulloh's place ? A. No, sir.

Q. Did he state that fact ? A. As I said, I hesitated somewhat when the proposition was made to me and I was met with the reply. " *Well, you know what you said to the Governor ;*" and I said, " *Yes, I do, and I will vote for Mr. McCulloh's removal.*"

Q. Did you make any inquiries at the time of that change concerning Mr. Sheehan, as to his ability or previous experience, or record or standing ? A. No, sir ; it was enough for me to know that the Governor wanted it.

The evidence of McCulloh is equally interesting (p. 2,995.):

I went to him (Squire) and asked him, informing him what I had heard, and he then said to me that I might make myself perfectly easy, that as far as he was concerned he would stand by me. The week before I was removed, I was told that the next day I was to be

removed, and that he was going to vote against me. I therefore went directly to him and told him that I heard it, and that I came to him not as a subordinate to my superior, but as one man would go to another and wanted a flat-footed answer as to whether he was going to vote against me or sustain me, and his answer to me was that "Self preservation was the first law of nature." I asked him whether he intended that to apply to me and he said, most distinctly not. Then I said, why must you vote against me to preserve yourself; he said, that I cannot answer. After he had voted against me he came into my office and sat down beside me and said, "McCulloh, that is the damndest meanest thing I ever did in my life."

Q. Did he tell you at any time what forced him to take this position? A. No, sir; he told me afterwards.

Q. Afterwards? A. Yes, sir.

Q. What did he say? A. He said, "*You know by the Flynn letter that they had me by the throat.*"

Q. Who did he mean by them? A. Judge Muller and the Governor.

SQUIRE GIVEN AWAY BY HIS PAL.

The removal of McCulloh was the last requisition of the conspirators upon Squire. On the following day the Squire-Flynn letter was made public. Mayor Grace seized the opportunity to give Squire a formal hearing and remove him from office. His removal was transmitted at once to the Governor. The time had come for Hill to fulfil his part of the compact with Squire. It was for the protection now so sorely needed that Squire had turned over the Public Works to Hill and voted for O'Brien's schemes in the Aqueduct Board. Squire is rather a simple and confiding fellow, after all, and he believed that Hill would stand true to him. He expressed the confidence he had, in his testimony (pp. 51, 91):

The charges were preferred on the 12th of August, and thereafter I slowed up a little to see how things were coming out at Albany; I saw Mr Muller and he said, "You are not losing your courage?" I said, "No;" he said, "You are not losing your faith in Governor Hill?" I said, "No;" he says, "You need not give yourself any anxiety; that matter is all right, Mr. Squire: the Governor has looked carefully over that matter, and there is nothing in the charges in which he deems he could consent to your removal."

Q. Did you have any formal hearing yourself before the Governor? A. No, sir.

Q. Did you request any? A. I don't know that I made any personal request.

Q. Why not? A. Because I was assured by Mr. Muller that it was not necessary that I should be there, and that the Governor didn't care to have me there.

But Hill had no further use for the publicly discredited Squire and he had not the manhood to stand by his bargain. Without a word of warning or apology, Hill signed the approval and Squire was an outcast. It is but natural to sympathize with the victim of such treachery, however much he may deserve his fate.

THE FRAUDS ON THE TAX-PAYERS.

This story would be incomplete without a brief recapitulation of the frauds upon the City Treasury which the re-organization of the Commission permitted. The testimony upon this subject is voluminous and complete. The main results can be merely outlined. Three important examples of the facts brought to light are given :

1. The contracts specified a certain line of excavation for the tunnel, and limited payments for excavation within that line, except in special cases. The Hill Commission adopted a rule, at variance with the contract, under which the contractors had, previous to the Investigation, received about \$500,000 for such illegal "extra" excavation. They also claim about \$1,500,000 more under the ruling of the Hill Commission. Since the Investigation and abolition of the Hill Commission, the city authorities have decided that such payments and claims are illegal.

2. The contract contemplated that the space outside of the brick lining of the Aqueduct should be filled with cemented masonry known as rubble masonry beneath and at the sides of the lining, but only with a dry packing of stones above the arch. The contractors bid \$5 per cubic yard for rubble, and agreed to do the dry packing for nothing. As such price for rubble is about double its actual cost, it was to the interest of the contractors to put in all the rubble that they could get allowed. The Hill Commission accordingly ordered that all the space over the arch be filled with rubble. If this order had remained in force the additional cost to the city would have been over \$1,000,000. But the Investigation forced the the Commissioners to rescind the order.

3. As the work on the Aqueduct has approached completion, the expenses of the Commission have increased enormously, although the work has diminished. The new Commission has taken hold of this also, the amount of saving cannot be estimated.

HILL FRIGHTENED BY HEWITT.

The last chapter of Hill's connection with the Aqueduct is very modern history. It again discredits the old adage that "there is honor among thieves." The revelations before the Fassett Committee aroused the public to a degree unknown since the exposure of the Tweed Ring. The Aqueduct Commission had become an object of public scorn and distrust. The Governor, in July last, found it necessary to call an extraordinary session of the Legislature to make appropriations for the State prisons. It was in his power to recommend legislation for the purpose of remedying the evils which had been shown to exist in connection with the Aqueduct, but no person ever dreamed that Governor Hill would recommend legislation which would injure his friend O'Brien. There was, however, one public-spirited citizen of New York who had listened patiently to the testimony taken before the Committee and who conceived a plan by which Hill could be forced to do this thing. He knew that Hill's one great purpose at that time was a renomination. He knew that Hill could not expect renomination, if Mayor Hewitt could be induced to denounce him as an Aqueduct plunderer. He also knew that Mayor Hewitt was fully convinced of Hill's wicked connection with the Aqueduct plundering. He, therefore, went to Mayor Hewitt and induced him to write one of his letters to Hill, for the purpose of terrifying Hill into recommending Aqueduct legislation. The Mayor hesitated only because he thought the plan impracticable, but, once convinced, he wrote a letter in which he denounced Hill in plain terms as a public plunderer and bluntly demanded that he should restore to the City Treasury the money which he had received from the Aqueduct contracts. Several persons saw this original letter (p. 2935), but it was not sent to Hill and was not produced before the Investigating Committee. The Mayor kept it over night and in the morning he toned down some of his demands and charges to suggestions and innuendoes. The revised edition of the letter he sent to Hill. There is no doubt that Hill was terrified. He was ready to do anything to suppress it. Not seeing it in newspapers on the following day, he despatched his private secretary, Col. Rice, at once to make terms with Mayor Hewitt. Not finding the Mayor in New York, Col. Rice followed him to his country seat

at Ringwood, New Jersey, and there they patched up a bargain by which Hill agreed to send into the Legislature the recommendation for Aqueduct legislation. Mayor Hewitt, on the witness stand, dodged and equivocated "like a gentleman." He tried not to give Hill away, but the main facts of Col. Rice's visit, the modifications of the letter to Hill, by which the personal reflections against Hill were toned down, and the immediate recommendation by Hill of Aqueduct legislation, were one by one extorted from the unwilling witness.

The following brief extracts from Mayor Hewitt's testimony are quoted.

Q. I will ask the question. Did you sign any letter or written communication to the Governor prior to the letter which you now call the final letter. A. Yes, sir; I did.

Q. Was that draft or written communication which you sent to the Governor, sent by you as Mayor? A. I think it was.

Q. Was that letter or written communication received back by you from the Governor? A. That I cannot tell you. Whether I received it from the Governor or not, but I will say this. I withdrew it and substituted another letter (p. 2,830).

Q. After the Governor's receipt of your letters to him did you see the Private Secretary of the Governor, Mr. Rice? A. I did.

Q. Where? A. I saw him at Ringwood, New Jersey.

Q. How soon after the receipt of your letter by the Governor? A. Of course I have to conjecture a little, but I think it was within three days; it might have been within two (p. 2,816.)

Q. Did Mr. Rice say that he came to see you at the Governor's request? A. I don't remember that he said so, and yet I imagined that he did come at the Governor's request. I don't know why he should come if the Governor didn't want him to. He never came before. (p. 2,866.)

A. I made three drafts before I saw Col. Rice. I altered them upon my own suggestions from time to time. Upon reading them over I thought there were some things which were not judicious for the public interests and I let them out. So far as Col. Rice was concerned, no request whatever was preferred to me. The letter was read and suggestions were made, and, so far as my judgment went, I acquiesced in those suggestions. (p. 2,850.)

Q. Did he suggest any modification, without calling for particular ones? A. He called my attention to words which he thought objectionable. (p. 2,862.)

Q. Then the withdrawal of the first and the substitution of what you called the final letter followed Secretary Rice's visit to you? A. It did. (p. 2,864.) * * *

Q. Was it returned to you from Albany at your request. A. It was returned to me from Albany at my request.

Q. After the interview with Mr. Rice? A. Yes. (p. 2,915.)

Q. But would you have requested the withdrawal of that letter?

but for the interview with Secretary Rice? A. I would not because I never would have read it again. (p. 2,934.)

The Mayor declined positively to produce the letters, on the theory, plainly stated, that his private obligation to the Governor was higher than his public obligation. He kept faith with the Governor and preferred punishment for contempt of the Senate to violation of his promise to suppress the letter.

SHEEHAN GIVES IT WAY.

The Committee would probably have failed to get the correspondence, had not one of the counsel noted the nervous excitement of William Sheehan who sat during the Mayor's examination close to Mr. Nicoll the counsel chosen to represent Governor Hill. It was surmised that Mr. Sheehan was in possession of the desired document. Acting on this surmise counsel made it appear so plainly that the letters were being suppressed at the instance of Governor Hill, that Sheehan was finally goaded to produce the substituted letter. After the hearing had adjourned, Sheehan held a conference with the Mayor, a telegram was procured authorizing the production of the letter which had been withdrawn at the Governor's request. Being absolved from his promise Mayor Hewitt produced the document, but did not produce the original document which he had exhibited to Mr. Beekman and others, and in which he had so definitely charged Hill with participation in the "jobbery, fraud and waste of public money," and in which he had distinctly demanded "reparation" by the return of the public money with which his notes had been paid.

HEWITT'S LETTER.

The letter is here set forth in full, the additions made at the suggestion of Colonel Rice being italicised and the omissions being enclosed in brackets:

"MAYOR'S OFFICE, NEW YORK, July 18, 1893.

THE HONORABLE DAVID B. HILL, *Governor*.

SIR :

I appeal to you for an act of justice to the City of New York, which you alone are in a position to render. A special session of the Legislature has been convened, which can consider only such subjects as you may see fit to submit to it. I ask you to recommend the

repeal of Chapter 337 of the Laws of New York, passed May 18, 1886, by which the Commission for building the new Aqueduct for furnishing the City of New York with an increased supply of pure and wholesome water, was reconstituted. This law was enacted by the Legislature, and approved by you, against the protest of the municipal authorities of this City made in accordance with the general demand of public opinion. It has needlessly increased the expense of the Commission and excluded the Mayor and Comptroller from its deliberations because they were not acceptable to the contractors. Its secretary was displaced in order to make room for a political [retainer] *partisan*, but was re-employed in another position because the new appointee could not do the work which the Secretary had previously performed without extra compensation. The contracts for the construction of the work have been confessedly violated by underletting to sub-contractors, who would have been glad to do the work for the City at the reduced price they were compelled to accept from the contractors. Bad work, since condemned, has been accepted and paid for, expensive rubble masonry has been substituted for dry filling without giving a corresponding increase in the value of the work; and in many ways too numerous to mention, the interests of the City have been sacrificed to the demands of the contractors and the [exigency] *requirements* of party politics. It has been openly testified by one of the Commissioners that the law whose repeal I now request was the result of a political deal, whereby the Republican party secured patronage, and it appears that Democratic campaign debts incurred in the election of 1885, were subsequently paid by the contractors *and charged to the member of the firm who was at the head of the State Committee*. The people of this City are astounded by these revelations. [The opinion is universal that speedy reparation should be made by all concerned in the change of the law whereby the public welfare has become thus entangled with political and personal interests.] *The opinion is universal that such changes in the law should be promptly made, as may be required to free this great public work from further entanglement with political and personal interests.*

The situation is [doubtless embarrassing] *not without embarrassment*, but it presents a plain duty to which neither you nor I can shut our eyes. We are Democrats, while the legislature is Republican. This is a fortunate conjuncture, as it will enable both political parties to clear themselves from further responsibility for this unfortunate legislation. If you shall make a recommendation for the repeal of obnoxious law, it will doubtless be promptly responded to by the Legislature. The first step will thus be taken towards the purification of the political atmosphere and the restoration of the government of this city to its right to participate in the control of an expenditure which is purely local and of vast proportions.

It may be said that it is now too late to repair the evil which has been done; but this not the fact. The work will require several years for its completion, and it is estimated that the expenditure yet to be made may amount to twenty millions of dollars. This vast outlay must be controlled by officers in whom the people of this city have



entire confidence, and it is indispensable that in part at least the Commissioners shall consist of men who desire their position directly from the suffrages of the people.

In this appeal for justice I am merely doing my duty to the citizens, whose official mouthpiece I am, and who look to you for that protection from jobbery, fraud, and waste of public money, which the Governor and the Legislature are bound by every consideration of honor and justice to afford. I have no doubt that the gravity of the situation is as apparent to you as it is to me, and that the result will be such as to satisfy the reasonable demands of public opinion.

I have the honor to be, very respectfully,

Your obedient servant,

ABRAM S. HEWITT, Mayor.

The "merely verbal changes" in this letter made at the suggestion and under an arrangement with the Governor's private secretary, change the tone of the whole letter. It is one thing to designate Sheehan's brother a "political partisan" and quite another to call him a "political retainer" of the Governor. This change is narrow in verbiage but wide in meaning. The charge as to the proceeds of Section 12 is quite altered by the addition of a few innocent words. And finally the last hint of "reparation" was omitted. The Mayor had set out to force an abolition of the rotten Aqueduct Commission, and perhaps the end justified the means.

THE WORK OF THE FASSETT COMMITTEE.

The new Commission is continuing the good work of uprooting the fraud begun by the Fassett Committee. It can save many millions to the taxpayers of New York if its work is faithfully done. The Mayor did not hesitate to give credit to the "Fassett Committee;" two short quotations from his testimony are but a fair termination of this article (pp. 2,926, 2,940):

I never knew a committee, I may say, that has done better work for the public than this Committee. I want to say that because in one of my jocular remarks I said something which may have seemed to reflect upon the Committee. I do think the Committee has done excellent work for the public. * * *

Q. What is your opinion of it as Mayor? A. I have already testified that I think it has been one of the most beneficent things that has ever happened in my day.

1890



